

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of THE COMMONWEALTH OF PUERTO RICO <u>et al.</u> , Debtors. ¹	PROMESA Title III Case No. 17 BK 3283-LTS (Jointly Administered)
In re: THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD FOR PUERTO RICO, as representative of PUERTO RICO ELECTRIC POWER AUTHORITY, Debtor.	PROMESA Title III Case No. 17 BK 4780-LTS

ORDER REGARDING CERTIFICATION OF CONSTITUTIONAL CHALLENGE TO A STATUTE

The Court has received and reviewed the *Notice of Constitutional Challenge to Federal Statute* (Docket Entry No. 24543 in Case No. 17-3283 and Docket Entry No. 3715 in Case No. 17-4780) (the “Notice”), filed by Assured Guaranty Corp. and Assured Guaranty Municipal Corp. (together, “Assured”), providing notice that its objection (Docket Entry No.

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

24539 in Case No. 17-3283 and Docket Entry No. 3713 in Case No. 17-4780) (the “Assured Objection”) to the *Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority* (Docket Entry No. 23663 in Case No. 17-3283 and Docket Entry No. 3296 in Case No. 17-4780) (the “Plan”) questions the constitutionality of the Puerto Rico Oversight, Management, and Economic Stability Act (“PROMESA”), 48 U.S.C. § 2101 *et seq.* Objections have also been filed by Isla del Rio Inc., Inc. (Docket Entry No. 24531 in Case No. 17-3283 and Docket Entry No. 3704 in Case No. 17-4780) (the “Isla del Rio Objection”) and Manuel Gonzalez Joy (Docket Entry No. 3590 in Case No. 17-4780) (the “Manuel Gonzalez Joy Objection”) arguing that the proposed Plan violates the Fifth Amendment to the Constitution of the United States by failing to pay just compensation for the taking of property.

Where “[a] party [] files a pleading, written motion, or other paper drawing into question the constitutionality of a federal . . . statute,” the Federal Rules of Civil Procedure require the Court to certify the constitutional challenge to the Attorney General. Fed. R. Civ. P. 5.1(b).²

It is hereby ORDERED that the above-described challenges to the constitutionality of PROMESA are certified to the Attorney General of the United States; and it is further

ORDERED that any other challenges to the constitutionality of PROMESA and/or the Bankruptcy Code that have been filed in response to the Plan are likewise certified to the Attorney General of the United States; and it is further

ORDERED that the Clerk of this Court shall forward a copy of this Order, the Notice (Docket Entry No. 24543 in Case No. 17-3283), the Assured Objection (Docket Entry No. 24539 in Case No. 17-3283), the Manuel Gonzalez Joy Objection (Docket Entry No. 3590 in Case No. 17-4780) and the Isla del Rio Objection (Docket Entry No. 24531 in Case No. 17-3283) to the Attorney General of the United States.

SO ORDERED.

Dated: June 14, 2023

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge

² Rule 5.1 of the Federal Rules of Civil Procedure is made applicable to this proceeding by rule 9005.1 of the Federal Rules of Bankruptcy Procedure, as incorporated by section 310 of PROMESA. 48 U.S.C. § 2170.